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APPLICATION NO. 19,298	FILING DATE 08/25/90	FIRST NAMED INVENTOR ANDERSON	ATTORNEY DOCKET NO. R ARM-11206/06
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IM62/0801

EXAMINER

SHERRER, C

ART UNIT	PAPER NUMBER
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1761

DATE MAILED:

08/01/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/139,298

Applicant(s)
Anderson

Examiner
Curtis E. Sherrer

Group Art Unit
1761



☒ Responsive to communication(s) filed on Mar 30, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-8 and 10-19 is/are pending in the application.

Of the above, claim(s) 12-14 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8, 10, 11, and 15-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Part III DETAILED ACTION

Priority

1. It is noted that this application appears to claim subject matter disclosed in prior copending Application No. 08/940,107, filed 9/29/97. The current status of all nonprovisional parent applications referenced should be included.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-8, 10, 11 and 15-19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. While Applicant asserts basis for the phrase "self contained unitary machine" is found on page 7 of the instant specification, the actual phrase

found therein is "one convenient machine" and the scope of each cited phrase is not necessarily equal.

5. Claims 1-8, 10, 11 and 15-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The claims are indefinite because the scope of the phrase "self contained unitary machine" is unknown.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8, 10, 11 and 15-19 are rejected under 35 U.S.C. § 103 as being unpatentable over Litwak (Supermarket Business) or Muskai (PC Magazine) in view Stear (Handbook of Breadmaking Technology) for the reasons set forth in the last Office Action.

Response to Arguments

9. Applicant's arguments filed 05/22/00 have been fully considered but they are not persuasive.

10. Applicant argues that the prior art does not teach "having a customer directly input his order into a controller which also controls the production of the process." The claim recites that the customer places an order into a customer interface and said customer interface is associated with a process control unit. Therefore, the claimed process requires that the customer communicated with a customer interface and said interface communicates with said process control unit. This is different from the customer directly inputting his order into a process control unit. Specifically, it does not recite the limitation of the customer interface.

11. Further, Applicant's argument is not directed to what the interface is comprised of, i.e. it could be a computer operator, a telephone, etc.

12. Applicant argues that "none of the prior art references describe a method utilizing a production controller which receives an order directly from the consumer and controls the output to deliver the output of a baked products at a predetermined time." Similarly, the phrase "production controller," which is not specifically used in the claims, does not exclude a person.

13. Applicant refers to the use of coffee vending machines (wherein customers directly input the type and size of beverage that they desire into the machine) and states that these machines produce their products in short periods of time and rely on premade ingredients. In response, it is noted that coffee machines exist, prior to Applicant's filing date, that select the type of coffee,

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brew the coffee and add ingredients all based on the customers' input. See for example, Newnan, USPN 5,241,898. This would be the complete process from bean to mouth and this would therefore entail the typical production time necessary to produce a cup of coffee. Therefore, it is considered that the concept of consumers, in a commercial setting, directly inputting the parameters that define the final product into a machine that will produce the final product is well known. This is further evidence of the obviousness of consumers having direct control over the production of their food, in a commercial setting.

14. Lastly, Applicant has not argued why it would not be obvious to modify the prior art disclosures so that a telephone communicates directly with the CPU attached to the bread making apparatus in view of the cited case law.

Conclusion

15. No claim is allowed.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Tuesday through Friday from 6:30 to 4:30.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached on (703)-308-0756. The **fax phone number** for this Group is (703)-305-3602.

19. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'C. E. Sherrer', with a long horizontal flourish extending to the right.

Curtis E. Sherrer
Primary Examiner
July 28, 2000